[President.]

favour of the consolidated allowance. The amount of the consolidated allowance is not now before this House. It was open to the Honourable House to have moved a particular motion to that effect. If it had done so, the question would have been considered. But the whole matter will be considered afresh by the Government and if there is any particular suggestion that the honourable member may wish to make, I shall be glad to listen to it.

The question that Government be granted a sum of Rs. 4,49,855—under Demand IV—General Administration—excluding Financial Secretariat, Accountant-General's Office, Legislative Bodies and Local Fund Audit Department and a sum of Rs. 88,691 under Demand VI—General Administration—Legislative Bodies was put to vote and carried.

The demands were passed and the grants were made.

DEMAND V—GENERAL ADMINISTRATION—FINANCIAL SECRETARIAT, ACCOUNTANT-GENERAL'S OFFICE AND LOCAL FUND AUDIT DEPARTMENT.

Mr. S. Narayana Aiyar: Sir, I beg to move for the grant of Rs. 2,88,186 under Demand V— General Administration—Financial Secretariat, Accountant-General's Office and Local Fund Audit Department.

The motion was put and carried.

The demand was passed and the grant was made.

DEMAND VII—ADMINISTRATION OF JUSTICE.

Mr. K. G. Kunjukrishna Pillai: Sir I beg to move for the grant of Rs. 15,39,547 under Demand VII—Administration of Justice.

Mr. G. Narayana Aiyar: Sir, I support the demand. In doing so I wish to bring to the notice of this House that the Civil Courts' Act may be amended in such a way as to meet some sort of emergencies. The Judicial officers, Munsiffs as well as Judges, can be on leave without previous sanction and making previous arrangements for their substitutes if any to come for ten or twelve days. Supposing a suit for injunction has to be filed during that interim period, what is the remedy to the party? Or a party in a pending suit wants to get a Report by a Commissioner to take a sketch of the property in dispute, its present position or the mischief which is being then done by the opposite party which will be material evidence in the case or else that evidence is lost or mischief could not be restrained what is the party to do in the absence of the officer and none else authorised to discharge his legal functions.

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President: Is it not within the purview of the District Judge?

Mr. G. Narayana Aiyar: No Sir, where a suit has to be filed in a Court where the presiding officer is absent and none else appointed. Sir, no order could be passed as the presiding officer is on leave. In a Criminal Court, when a Magistrate is about to take leave Government are making the necessary arrangements for the proper conduct of business during his absence by giving that jurisdiction to some other magistrate. Such a provision is not made in the Civil Procedure Code. It is therefore a serious handicap and has to be remedied as early as possible by amending the Civil Courts Act II of 1084. The fact that no such provision exists elsewhere is no ground for negativing it because it is a standing grievence that has to be remedied urgently.

Mr. N. Narayana Kurup: May I know from the honourable member what is the procedure to be adopted if a person wants an immediate injunction during midsummer vacation?

Mr. G. Narayana Aiyar: During midsummer vacation—if I remember aright-they can approach the vacation Judge of the High Court and get an order if necessary, but that is not the procedure when the Judge is on leave.

The other point that I wish to bring to the notice of the House is that the Administration Report shows that notwithstanding the attention bestowed in the matter of selection, the number of reverses and modifications of the judgments of Munsiffs comes nearly to 43·50. That is not a very satisfactory affair. I would therefore submit that more and more attention has to be paid in the matter of selection of officers. As I have said on a previous occasion, the period during which such candidates could be enlisted for appointment is fixed at too early an age by which it may not be possible to get efficient candidates. So I submit that the age for the selection of Munsiffs and Judges may be raised a little higher so that.....

Mr. K. A. Raman Pillai: May I know from the honourable member the age obtaining in British India with regard to the recruitment of Munsiffs?

Mr. G. Narayana Aiyar: We are not concerned with what is obtaining in British India. We are concerned only with the practical difficulties that face us. We have been following the practice in British India in some cases but it was found very difficult. Supposing a candidate enters as Munsiff at the age of forty, what is the difficulty of Government? They can serve the Government only for 15 years and their pension will be proportionately small. The candidate may be a man of ripe experience. If a proper man is not avilable within the prescribed age-limit, the

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[Mr. G. Narayana Aiyar.]

policy that somebody can be appointed should not be adopted. If men with better experience and who are fairly older are recruited, the statement of the Government that the working of the department is not quite satisfactory could be avoided.

Here also, I would submit that some more attention has to be paid to selection of the judicial officers.

Mr. G. Revi Varma: Sir, I do not hear the honourable member.

Mr. G. Narayana Aiyar: In the selection of Munsiffs also some more attention has to be paid to the selection of moffusil Advocates who are not in any way inferior to those who reside in the Capital. Sir, most probably, moffusil practitioners having enough of practice on the original side may be expected to know men and things more intimately and we may expect them to discharge their work very satisfactorily.

Another suggestion I would make is that in the case of the advocates their enrollment takes place only after they pass their apprenticeship. In the case of those recruited from the Department the selection is from Sheristadars and others above them. Without being required to undergo any such examination they are recruited directly as Munsiffs. It has been my experience to see that, having no past experience and without familiarising themselves with the Civil Procedure Code, Limitation, courts fees, landlord tenant Act & etc. which are not subjects for the B. L. examination, they find it difficult to grasp the subject. I would submit that in such cases before they actually take charge, they may be compelled to appear for the Apprentice examination in which all such subjects are prescribed. Only those who pass the examination should be appointed as Munsiffs.

Mr. P. Gopalan (*Vaikom, Kottayam* and *Changanacherry* cum *Peermade*) ; സർ, സിവിൽകോടതിയിൽനിന്നും കോർട്ടപേരസ്യങ്ങൾ പ്രസിദ്ധം ചെയ്യുന്നതിനായിട്ട് പത്രക്കാർക്ക് കൊടുക്കുന്ന സംഗതിയിൽ ചില പ്രത്യേക നയം സ്വീകരിച്ചുവരുന്നു എന്ന് എനിക്ക അനുഭവപ്പെട്ടിരിക്കുന്നു. കക്ഷികൾ, അവരുടെ അപേക്ഷാനുസരണമുള്ള പത്രത്തിൽ പരസ്യം കൊടുക്കാതെ ... ...

Mr. K. G. Kunjukrishna Pillai: The question that has been raised is with regard to the giving of these notifications of the Civil Courts to certain papers. On that matter, the ruling is that the party recommends the paper to which the notice should be given, and that is not a matter which can be discussed here,

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President : Honourable Member may probably remember that parties at whose instance advertisements are inserted in newspapers have the right to choose the papers. Generally it is so. It is only if they do not choose, that the court fixes at its discretion the paper in which the advertisement should appear.

Mr. P. Gopalan : സർ, അതുതന്നെയാണ് ഞാൻ പറയുന്നതു്. കോടതികൾക്ക് ഇഷ്ടമുള്ള പത്രങ്ങൾക്കു മാത്രമേ കൊടുക്കുകയുള്ളു എന്നുള്ള ... ...

Mr. K. G. Kunjukrishna Pillai : I should get a specific instance.

Mr. P. Gopalan : കൗമുദിയിൽ പ്രസിദ്ധംചെയ്യണമെന്നു് ഞാൻ അപേക്ഷിച്ചപ്പോൾ, കൗമുദിയല്ല, കേരളകൗമുദിയാണു് എന്നുള്ള കാരണത്താൽ എന്റെ അപേക്ഷ സ്വീകരിച്ചില്ല.

President : Who was that. Order, order. If any such matter was brought to the notice of the Government, naturally Government would address the High Court and take the necessary steps to set right matters.

Mr. K. G. Kunjukrishna Pillai : May I ask when it was done – the date of the complaint ?

Mr. P. Gopalan : വൈക്കം മുൻസിഫ് കോടതിയിലാണ്.

President : Well, the matter will be investigated.

Mr. P. Gopalan : ഉടനെ, ഞാൻ, കേരളകൗമുദിയിൽ പരസ്യം ചെയ്യണമെന്ന കാണിച്ചു് ഒരു അപേക്ഷ കൊടുത്തു. അതിന്റെ ഫലമായിട്ടു എനിക്കു കിട്ടിയ അറിവു് എങ്ങിനെയെന്നാൽ, പരസ്യങ്ങൾ പ്രസിദ്ധംചെയ്യുന്ന കാര്യത്തിൽ പ്രസ്സുകളുടെ ഒരു ലിസ്റ്റ് സൂക്ഷിച്ചിട്ടുണ്ടെന്നും, അതിൻപ്രകാരം പരസ്യങ്ങൾ കൊടുക്കുന്നതിൽ ചില വ്യത്യസ്ഥനയം സ്വീകരിച്ചിട്ടുണ്ടെന്നും ആണു്. അതിന്റെ ഫലമായിട്ടു്, കേരളകൗമുദിയിൽ പരസ്യംചെയ്യണമെന്നുള്ള എന്റെ അപേക്ഷയെ നിരാകരിച്ചിട്ടു്, കോർട്ടിൽനിന്നും അതിനെ മലയാളരാജ്യം പ്രസ്സിൽ കൊടുക്കുന്നതിനു് ഉത്തരവിട്ടു. പരസ്യക്കൂലി കക്ഷികൾ നിർവ്വഹിക്കേണ്ടിവരുന്നതുകൊണ്ടു്, പരസ്യവും, അവർക്കു ഇഷ്ടമുള്ള പത്രങ്ങൾക്കു കൊടുക്കേണ്ടതാണു്. എന്നാൽ, ഗവൺമെന്റിൽനിന്നും അങ്ങിനെതന്നെ ചെയ്തുകൊള്ളാമെന്നു് പ്രസ്താവിക്കുന്നപക്ഷം എന്റെ പരാതി പിൻവലിച്ചു കൊള്ളാം.

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Mr. T. M.Chidambarathanu Pillai: Sir, regarding the recruitment of judicial officers, Mr. Narayana Iyer stated that the age limit should be raised above 35 and in that way they could select better men. The present fixing of the age is very proper and it conforms to the conditions obtaining in British India where the age limit is 33. The present policy in the matter of recruitment as Munsiffs is satisfactory. I can say so with my 28 years of experience as a legal Practitioner. But I have my grievances in regard to the selection. Sir, in the Taluks of Thovala and Agastheeswaram my community forms the majority. They are the Tamil Taluks of the country and the Tamilians in the State number about 6 to 7 lakhs. I believe from the Nanjinad Vellala Community, which consists of 30,000 people, there is not a single Judge. I am not advertising myself for any post Sir, we have a tradition and history behind us, we have contributed our mite in the conquest and consolidation of Modern Travancore. Though we have been participating in the administrative affairs of the State for the past many years we have not been able to get any appointment either as a Judge or as a Munsiff. It cannot be said that we do not have efficient practitioners either in the District Court of Nagercoil or in the High Court. Though legitimate claims are put forward to this House, we are sorry to find that we are not given sufficient encouragement. We are entitled to get as much encouragement at the hands of Government as is extended to any other community. Our history shows that till the reorganisation of the office of the Financial Secretary or the Accountant General it was the Vellalas whose services were utilised for a long time to fill those places. They were then known as Valia Melezhuthu Pillais. We have therefore a right to make claims and a right to approach Government for satisfactory remedies at their hands. There is not a single individual now either as a Judge or Munsiff as I have already said.

Coming to another point a lot of clients have deposited moneys in connection with the Debt Relief Act and other matters. Now, it is found that for the last four or five months the clients are not getting the money deposited in the Courts, because advices are not being sent to the Courts by the Taluk staff. They say that there is great congestion of work in the Taluk Office on account of these control measures. This delay in getting the deposit amount causes a great deal of inconvenience to the clients. I would therefore suggest that the advice relating to deposits in the Treasury may be arranged to be sent to the Courts once in every week.

Mr. G. Madhavan: Sir, in supporting the demand by the Legal Remembrancer, I would like to bring to the notice of the Government one or two things which come uppermost in my mind.

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In the first place, it is a pitiable thing that in certain courts.—I do not know the case of other courts—no provision is made for making clients' sheds. In some courts, no provision is made for building for Advocates and Vakils. In the Shertalai Courts the Vakils and the Advocates had the permission of the Government to construct a building as their Bar Association Hall. But, in recent times when a third temporary court was added the building was taken by the Government. Of course, it was with the specific understanding that when Government wanted we were willing to surrender, that the building was constructed. Now, our position is very delicate. We are having a small building not in any way better than a cow-shed. This is the case with the Advocates and Vakils. But there is no place for the clients to wait. They are crowding the verandas and thereby causing disturbance to the work of the Court. I think the attention of the Government will be drawn to these matters.

Another thing which I have to bring to the notice of the Government is the case of some clerks especially the bench clerks and the execution clerks. As my friend Mr. Narayana Iyer has suggested, they are compelled by the heavy nature of their work to go to the office at seven or eight in the morning and leave the office only late in the night. I have seen them working till 1 or 2 o'clock in the night. Now, it is a pity that these people are also given the same pay as the other clerks who come at twelve in the morning and leave the office at 6 p. m. My suggestion is that the clerks whose work is of a heavy nature should be given a special allowance. If the Government are not resorting to some such arrangement, the result will be that they will begin to get bribes, if I may be allowed to use the word. If they are not properly paid, they will have to see for themselves that their necessities are provided for, and nobody can find fault with them if they resort to some improper means. So, I draw the attention of the Government to the fact that some provision may be made in their case also.

A third fact which I would draw the attention of the Government to, is the necessity of strict adherence or putting into practice the principle of communal representation in the judicial department. I am aware of your statement on one or two occasions in this Legislature that in judiciary it will be very difficult to conform to the principle of communal representation. Efficiency is the thing which is looked for in the judicial department. I ask the question, whether any person recruited from the backward community is found inefficient. I can boldly say that they are as efficient as any other judicial officer appointed from any other community. In appointments where special knowledge or technical knowledge is required communal representation need not be strictly

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Mr. G. Madhavan]

adhered to. At the same time, in those cases, I may bring home to the Government the necessity of giving free admission to the University technical courses for backward or unrepresented communities.

Educational facilities were granted to these communities only very late and so it is no wonder why many of them are not prepared to offer themselves as knowing technical matters on account of lackof proper facilities. Nor were they helped by Government before. What I therefore urge is that Government should give preference for the members of unrepresented communities in educational institutions. In this connection, I want to refer to the existence of an anomaly. When people get themselves converted to Hinduism—whether the subject is relevant or not—certain difficulties arise in the matter of giving recognition to the principle of communal representation. For example, when a person gets himself converted to Hinduism, there is difficulty in knowing his exact caste. When filling up application forms, caste has to be mentioned there. What I understand is, such converts to Hinduism are recognised as belonging to the Ezhava community. But I do not know whether a court of law has recognised it.

President: What is the proposition ?

Mr. G. Madhavan: I understand that Ezhavas recognise these converts as belonging to the Ezhava caste.

President: Is it your point that everybody who gets himself converted to Hinduism belongs to the Ezhava Community. I do not think the Government have recognised them in that manner.

Mr. G. Madhavan: I understand that they claim themselves as Ezhavas. If so, there is a practical difficulty to be overcome. It is a realisedifact that there are very many instances where members of other religions get themselves converted to Hinduism. The Hindus are not a consolidated body; they are subdivided into numerous sub-castes. If a Christian or Mahommedan is converted to Hinduism, I do not know to which caste he could be classified.

President: How does this thing come under this Demand?

Mr. G. Madhavan: I shall trace the relevancy for that. When a convert to Hinduism makes an application to Government for appointments, he has to state his caste.

President: He can be classified as a Hindu. There are certain lists of communities such as Christians, Mahommedans and Hindus. In the classification "Hindu", there are communities such as Brahmin, Nair, Ezhava and so forth. If he does not come under those groups, he can be classified under 'Other Hindu'.

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Mr. G. Madhavan: Sir, should we be taken to that category?

President: If he does not come under any one of these categories such as Brahmin, Ezhava, Nair etc., then he comes under "Other Hindu"

Mr. G. Madhavan: I have to refer to that, because, he has to state his caste in the application form.

President: The honourable member need not be worried over this matter. He will now proceed to other points.

Mr. G. Madhavan: Sir, a word about legislation, the law which applies to such a person.

President: Now, I see the point.

Mr. G. Madhavan: Sir, there is a provision in the Travancore Special Marriage and Succession Act.

President: The honourable member may perhaps realise that this is a very difficult question and is one of the problems now engaging the attention of a committee constituted by the Government of India. It is generally known as the Rao committee. He was a judge of the Calcutta High Court for a time and now he is the Prime Minister of Kashmir. Among some of the questions for decision are the Marriage Law, Succession law and the status of a convert of one religion to another and of converts from other religions to Hinduism. The question is of very great importance in the Punjab and United Provinces, because of the activities of various organisations in the matter of converting to Hinduism.

It is equally important from the point of view of Muslims because there are certain sub-headings in the Muslim community such as Kathinas and various others who are making converts from the Muslim community into their own sub communities. So the whole question is being discussed by the Muslim jurists for the sake of Muslims and by the Rao committee on behalf of the Hindu community.

Mr. G. Madhavan: So, what I want to stress is that the attention of Government should be directed to these matters as soon as possible.

Mr. G. Revi Varma: As none of the honourable members spoke about the condition of lawyers, Advocates and Vakils on this Demand, I desire to deal with their condition. Their condition needs some betterment. In British India, there is a legislation for the betterment of Vakils' prospects. Something on the lines obtaining there must be done by our Government here also. A fee of 5% *ad valorem* is fixed for a lawyer here, whereas it is 7½% in British India. Some such modification may be effected in our laws and the law brought in line with the rest of India.

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President: The whole question is a matter for the Bar Council to decide. I may tell the honourable member that, as one having been engaged in that matter for a long time, out of the 7½% sanctioned in British India, 5 per cent. is given to the senior lawyer and the remaining 2½ per cent goes to the junior lawyer. But it is not carried out in that proportion always. All the same, this 7½ per cent. comes from the client. In England, so far as this matter goes, the payment of fees is divided at the rate of 4/5 and 1/5 for senior and junior respectively. In certain categories of cases, it is divided as 2/3 and 1/3. The attorney is the person employed for distributing this fee. So, the whole question depends on the discipline to be exercised amongst the members of the Bar *inter se* in order to implement a resolution however pious it may be. Therefore, if honourable members, will see that the Bar Council enforces this suggestion, the Government would be only too anxious to endorse that view.

Mr. G Revi Varma: That being the case, there should be legislation with regard to that.

President: Assuming that there are two sets of lawyers the problem gives rise to great difficulties in certain cases. In very many instances the junior lawyer is not able to assert himself. That is the main trouble and he allows the senior man to take the whole fee of 7½ per cent. In the Bar Councils of Madras and Bombay, the same is the case. Very recently there was a conference held at Hyderabad, wherein this topic also formed one of the items of discussion. I ought to have gone there for presiding over the function. But on account of other engagements, I sent up my address for that occasion, That conference also passed a resolution to the effect that the fee must be fixed at 7½ per cent. But no effect seems to have been given to such a proposal. They have stopped at that hurdle. They could not decide the agency which should divide the amount and the manner in which that decision is to be carried out between the senior and the junior.

Mr. G. Revi Varma: Here there is no question of senior lawayer or junior lawyer.

President: That is what I also referred to.

Mr. G. Narayana Aiyar: Is the honourable member aware that the Travancore Bar Council have modified the existing scale of fees and have made suitable recommendations to Government where the matter is now pending decision?

Mr. G. Revi Varma: I am not aware. My point is that there should be some sort of legislation with regard to the payment of fees to lawyers and also about the conduct towards the clients. It is only in British India, the question of senior and junior lawyer

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arises. Here, there is nothing of the kind. The senior man here will argue a tough case even without the assistance of a junior. Very many cases are conducted by him in that manner. There again, I may say that the same cases should be conducted by the help of juniors also.

President: The rule followed as a matter of convention in British India, especially in Madras, is that after having attained a certain seniority in the profession, a senior lawyer declines to deal directly with a client. He will only see him if a junior lawyer prepares the case for him. Therefore, there is no such thing as a client approaching a senior lawyer, because he will not even see him. That is the position.

Mr. G. Revi Varma: Another point I wish to suggest in this connection is this. I do not know whether I will be right in referring to that. But, I venture to do so. There is a class of retired officers who are practising as lawyers in our place. A legislation has to be enacted for putting a ban on the retired people from joining this profession. At present there is no agency to say nay to such retired men from practising. A rule has to be made stating that after a particular age, no person especially a retired person, should practise the profession of law. After a particular age, however efficient a lawyer may be all his activities should be confined to his chamber.

Mr. K. G. Narayana Panicker: Does it follow that he should not practise at all.

Mr. G. Revi Varma: A legislation should be enacted for detaining such persons from practising. That is the point I am driving at. It is a matter of common sight to see in courts that the senior lawyers, especially very aged people, take up cases which sometimes amount to a heap of file as it were. On many occasions, they have not been able to do full justice to their work. It is also not rare that the presiding officers show indulgence towards these aged people.

Mr. M. Govindan: Sir, I take objection to those sentiments.

Mr. G. Revi Varma: With all due respect to the honourable member and his knowledge of the profession, I stick to my views in this particular matter. Again, Sir, it is a matter of common occurrence in courts that when seniors appear in cases and when their names are called, they are not seen there. The presiding officers are a little bit indulgent towards such people. They do not find time to come to courts even. Sometimes they cannot do justice to their work.

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Mr. M. Govindan: I question that.

Mr. G. Revi Varma: I am saying all this from my actual experience; such practices are being followed in the courts of this land.

As regards recruitment to the services, I find there are now too many in the profession. But only some are recruited to the services. In very many cases where the members are recruited for service from this profession, we see the youngsters without any work being selected. We are losers in that respect. For instance, suppose Government select advocates who have large practice for appointment as officials with higher pay? If that is done, the juniors in the profession will get some work in their absence. In the matter of recruitment as Sirkar Vakils and pleaders, our complaint is that they receive fat salaries and come again to the courts with extra work and thus make the situation difficult for juniors in the profession.

Mr. T. M. Chidambarathanu Pillai: What is to be done with respect to retired officers?

Mr. G. Revi Varma: They should be debarred from practising in courts. The Government must get the services of lawyers who have a large number of cases with them and pay them more. With due respect to the Advocate General, the Legal Remembrancer and other Government pleaders, all that I say is, their pay must be enhanced and Government may treat them as full-time officers of Government. Why should they remain as non-officials and again attend courts for non-Government cases and thus be a source of trouble for the juniors in the profession.

President: But, does the member realise that there is such a person called 'client' in the profession. After all, a man does not come straight a way and clutch at cases. It is the client who chooses the Vakil.

Mr. G. Revi Varma: Sir, my point is only this. When a person is appointed as Government Pleader or Legal Remembrancer or even as Advocate General, such a person must refrain from practising in courts. He should be treated as a Government officer and not allowed to practice in court. In other words such a person should be a full time Government officer.

When a person is appointed as a Government Pleader or a Sirkar Vakil or the Legal Remembrancer or the Advocate General, he should refrain from accepting other work than that of Government. Government officers are not allowed to practise in Courts, so they may also be made full time Government officials. I have no objection to their being paid very high salaries.

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President: Does not the honourable member find any difficulty in this? I do not want to speak with reference to any matter in which I have no personal knowledge, but very few persons at the top of the Bar will accept a position as a Government Pleader or the Advocate General for any pay which any Government might offer. For instance, the Madras Government pays the Chief Justice a salary of Rs. 5,000. The leading members of the Bar cannot possibly take up the place because their ordinary income is between ten and twenty thousand rupees a month. Take the case of the Attorney General. The Attorney General in England used to get, before the revision of salaries, £ 7,500 a year, *i. e.*, about Rs. 8,000 a month. And yet great persuasion had to be used by the members of the Bar Council to induce leading members of the Bar like Mr. F. E. Smith to take up the Attorney-Generalship. They all declined so much so, that the Lord Chancellor once sent for Mr. F E. Smith, who afterwards became Lord Birkenhead and told him that it was part of the etiquette of an advocate to accept the Attorney-Generalship, if he could not be attracted by the pay offered. Here for instance, it is not possible for Government to pay more than Rs. 2,000. I do not know the incomes here but for Rs. 2,000 or Rs. 3,000 nobody in Bombay, Calcutta or Madras will accept a place.

Mr. V. N. Padmanabha Pillai: (*Parur, Kunnattunad and Muvattupuzha* cum *Devicolam*): Does the honourable member know that in western countries, first rate men go in for business, second-rate men go in for law, and only third-rate men go in for Government service, though in Travancore the opposite is the case.

Mr. G. Revi Varma: There are too many in the profession in the State. I do not know whether it will be worthwhile to close the Law College for two or three years. These youngsters after their University careers are just putting off their evil day by going to the Law College. There is so much of competition in the profession, that after entering the profession these youngsters are very much disappointed. Something should certainly be done for the amelioration of the condition of these young lawyers. It may be that there are too many, but that is the very reason why Government should take steps to safe-guard their interests. I hope this matter will be looked into and something will be done.

Mr. K. G. Narayana Panicker: In supporting the grant, I have to bring one fact to the notice of Government. That is about the territorial jurisdiction of Munsiff's Courts and Magistrate's Courts. In all taluks there are at least one Munsiff's Court and one Magistrate's Court. My submission is wherever possible

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[Mr. K. G. Narayana Panicker.]

the territorial jurisdiction of the two Courts should be the same. I wish to point out this fact mainly in connection with the Courts in Tiruvalla. There are a Magistrate's Court and a Munsiff's Court in the town; but the territorial jurisdiction is not the same. The clients of certain pakuthies under the Munsiff's Court have to run up to Changanacherry, Ambalapuzha, or Chenganoor also, if they are to attend the two courts on the same day under steps through courts. This is highly inconvenient, if not impossible. For the convenience of courts, Vakils and parties, I would suggest that the jurisdiction of the two courts may be made the same.

Mr. K. A. Raman Pillai: May I put in a word, Sir? I am supporting the motion for the Demand. My friend Mr. G. Narayana Iyer advocated for raising the age for the recruitment of Munsiffs. I am not in favour of that. The age which is now fixed is 34. This has been fixed after mature consideration, and on the recommendation of the High Court, it has been sanctioned by Government. The age that is now obtaining in British India, is I think, 32. The usual age of entry into the Bar of a person is something like 24. So when he reaches 34 years of age he will be able to put in ten years of service at the Bar. That I think, Sir, is sufficient experience for any appointment in the judiciary. And moreover, that if the age limit is raised to 40 persons who are 34 and below 34, have no chance to be appointed as Munsiffs. It is only probable that persons nearer 40 will be preferred. And if a man is appointed as a Munsiff at the age of 40, he will begin to think, once a Munsiff, always a Munsiff as, once a mortgage always a mortgage. He will have no incentive for work but in the case of these younger men, they will be ambitious. They will want to show satisfactory progress in work, they can naturally expect promotions and all that. Therefore I am strongly of the opinion that there is absolutely no necessity for the enhancement of the age limit for the recruitment of Munsiffs.

My frient Mr. Madhavan said that with regard to recruitment to the Judiciary, communal considerations ought to weigh. I am against that view. The only test ought to be efficiency. Mr. Madhavan said that certain members of his community have been appointed as Munsiffs and they are proving to be very good Munsiffs. I do not dispute that, but they were appointed not on communal considerations. It was on account of their efficiency that they were appointed as Munsiffs and not because they happened to belong to any particular community. I am therefore strongly advocating the principle of efficiency in regard to recruitment to judiciary.

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Mr. G. Madhavan: Is the member aware that the High Court has accepted a rotation principle in the case of appointments of Munsiffs?

Mr. K. A. Raman Pillai: No. The High Court has not accepted any such thing to my knowledge.

I want to say something about the separation of the executive and the Judiciary. This question has been discussed on the floor of the House on more than one occasion. But my view is that it is worth repeating the thing again until the problem is solved. Our Judiciary is noted for its independence and impartiality. When I say that the executive and the Judicial should be separated, I only want to see that the ideal is achieved. The combination of the Judicial and executive functions ought to be obviated in order to ensure the prestige and dignity of the Judiciary. I am referring to the combination of the revenue and judicial functions in the case of District Magistrates and First Class Magistrates. If these functions are combined in one person he is subject to a sort of dual control, for his revenue functions, he will be under the control of the revenue authorities and for his judicial functions under the control of the Judicial authorities. It is highly necessary and desirable that these District Magistrates and First Class Magistrates are divested of their revenue functions and they must be put under the strict control and superintendence of the High Court. Even in the case of the appointment of Magistrates, the appointment may be done by the High Court. My object in saying this is not that the appointment to Magistracy should be a monopoly of the Bar. Ever since your advent, Sir, the policy of appointing Magistrates from the Bar also has been adopted. In fact, members of the Bar have been recruited in all departments. We have therefore absolutely no grievance in that matter but my point is that once they are appointed, they must absolutely be under the control of the High Court as in the case of the Munsiffs.

Certain suggestions were put forward by my friend Mr. Rev Varma with regard to the improvement of the profession of law. I wish to refer just to one or two matters. A greater share of the appointments in the judiciary may be allotted to advocates. Regarding the conveyancing some resolution was passed by the Bar Council and recommendations were made to Government. One of the recommendations is that a document should not be accepted for registration unless it is attested by a lawyer. The recommendation must be accepted and the necessary amendments in that behalf may be made in the Registration Act and the rules thereunder as early as possible.

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[Mr. K. A. Raman Pillai.]

The Bar Council also made certain recommendations with regard to the enhancement of advocates' fees. That is pending the consideration of Government. Suitable steps should be taken at the earliest opportunity to implement the recommendations of the Bar Council.

Mr. A. N. Satyanesan : സർ, ഈ അഭ്യർത്ഥനയെ അനുകൂലിച്ചുകൊണ്ടു, സംസ്ഥാനത്തിലെ പരമന്യായാസനമായ ഹൈക്കോടതിയിലെ സ്റ്റാഫിന്റെ ചില അവശതകളെ പരാമർശിച്ചു് രണ്ടു വാക്കു മാത്രം പറയുവാൻ ഞാൻ ആഗ്രഹിക്കുന്നു. ഫിനാൻഷ്യൽ സിക്രട്ടറിയേറ്റ് അക്കൌണ്ട് ആഫീസ് മുതലായ പ്രധാന വകുപ്പുകളോടൊപ്പം തന്നെ പ്രാധാന്യമർഹിക്കുന്ന ഒന്നാണ് ഹൈക്കോടതി എന്നുള്ളതു വിശിഷ്യാ പറയേണ്ടതില്ല. എന്നാൽ താരതമ്യേന ഹൈക്കോടതി സ്റ്റാഫിന്റെ ശമ്പളത്തിന്റെ നിലയും പ്രമോഷന്റെ സൗകര്യവും നോക്കുമ്പോൾ ഗണ്യമായ തോതിൽ അവർ അവശത അനുഭവിക്കുന്നു എന്നു പറയാതെ തരമില്ല. സ്റ്റെനോഗ്രാഫിക് വകുപ്പിലെ മാനേജരുടെ ശമ്പളം ൧൫൦ മുതൽ ൨൦൦ വരെ ആയിരിക്കുമ്പോൾ ബഹുമാനപ്പെട്ട ഹൈക്കോടതിയിലെ ഹെഡ് ക്ലാർക്ക്, മാനേജർ ഇവരുടെ ശമ്പളം ൧൦൦-ൽ നിന്നു ആരംഭിക്കുന്നതായിട്ടാണു കാണുന്നതു്. അതു പരിതാപകരമായ ഒരവസ്ഥയാണ്. ഹൈക്കോർട്ടിൽ ഗ്രാഡുവേറ്റുകളും ലാ ഗ്രാഡ്വേറ്റുകളും ധാരാളം പ്രവേശിച്ചുതോട്ടുകൂടി അവിടെ അഴിമതികളെക്കുറിച്ചുള്ള ശബ്ദം നിശേഷം നീങ്ങിയിട്ടുണ്ടെന്നുവേണം പറയുവാൻ. അങ്ങനെയുള്ള ഒരു സ്റ്റാഫ് ഉത്സാഹത്തോടുകൂടി ജോലി ചെയ്യണമെങ്കിൽ അവർക്കു തക്ക പ്രോത്സാഹനം ലഭിക്കേണ്ടതു അത്യന്താപേക്ഷിതമാണ്. രണ്ടു വിധത്തിലുള്ള അവശതകളെ അവർ അഭിമുഖീകരിക്കേണ്ടിയിരിക്കുന്നു. ഒന്നാമതായി മുനിസിപ്പന്മാരായി ബാറിൽനിന്നു റിക്രൂട്ട് ചെയ്യുന്നതു നിമിത്തം നാലിൽ മൂന്നുഭാഗം പ്രമോഷനും നഷ്ടപ്പെടുന്നു. രണ്ടാമതായി അവർ അർഹിക്കുന്ന ശമ്പളസ്കെയിൽ അവർക്കു ലഭിക്കുന്നില്ല. എനിക്കു സംഗ്രഹിച്ചു് പ്രസ്താവിക്കാനുള്ളതു അവരിൽ കൂടുതൽ പ്രായമുള്ളവരെ സിക്രട്ടറിയേറ്റിലും മറ്റും അവസരോചിതമായി ട്രാൻസ്ഫർ ചെയ്യുകയും ഏതാനും സീനിയർ ക്ലാർക്കന്മാർക്കു കൂടി സിക്രട്ടറിയേറ്റ് സ്കെയിൽ അനുസരിച്ചുള്ള ശമ്പളക്രമത്തിൽ നിർത്തി അവരെ പ്രോത്സാഹിപ്പിക്കുകയും ചെയ്യണമെന്നുള്ളതാണ്.

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Mr. N. Madhavan Namboothiri (*Travancore Jenmies*): സർ, ചേർത്തല താലൂക്കിൽ ഒ സ്ഥിര കോടതികളും ഫ സെബറി കോടതിയും ഉൾപ്പടെ നു മുൻസിഫ് കോടതികളും ഉണ്ട്. അതിൽ ഒരെണ്ണം തുറവൂർ എന്ന സ്ഥലത്തേയ്ക്കു മാറണമെന്നു ഞങ്ങൾ ഗവണ്മെന്റിനോട് പലയാവർത്തി അപേക്ഷിച്ചിട്ടുണ്ട്. ചേർത്തല താലൂക്കിന്റെ നീളത്തിൽ പകുതിയിലധികം ഭാഗവും ചേർത്തലക്കു വടക്കുഭാഗത്താണ് സ്ഥിതിചെയ്യുന്നത്. ഏകദേശം ഫന്നു മൈൽ നടന്നുവേണം ചേർത്തല കോടതിയിലേക്കു് ഈ ഭാഗത്തുള്ളവർ വരാൻ. കോടതി തുറവൂർക്കു മാറുന്നപക്ഷം അതു ചേർത്തല താലൂക്കിന്റെ മദ്ധ്യഭാഗത്താകും. ഈ വിഷയത്തിൽ ഗവണ്മെന്റിന്റെ ശ്രദ്ധ പതിയുമെന്നു വിശ്വസിക്കുന്നു.

Mr. N. Narayana Kurup: സർ, ചേർത്തല പകുതിയിൽപ്പെട്ട പള്ളിപ്പുറം, പാണാവള്ളി ഈ പ്രദേശങ്ങൾ വയ്ക്കുന്നതു മുനിസിഫ് കോടതിയുടെ അധികാരത്തിലാണു കിടക്കുന്നതു്.

Mr. K. G. Kunjukrishna Pillai: Sir, I may intervene and say that Government have already passed orders about that.

Mr. N. Narayana Kurup: എന്നാൽ അതു ഞാൻ പിൻവലിച്ചിരിക്കുന്നു. സർ, അമ്പലപ്പുഴ താലൂക്കിൽപ്പെട്ട തലവടി പകുതിയിലെ ഒരു ഭാഗം തിരുവല്ലാ മുനിസിഫ് കോടതിയുടെ അധികാരാതിർത്തിയിലും അതിന്റെ ഡിസ്ട്രിക്റ്റ് കോർട്ട് അധികാരം മാവേലിക്കരയിലുമാണ്. ഇവരണ്ടും അമ്പലപ്പുഴ മാറിക്കൊടുക്കുന്നതു അവിടത്തെ ജനങ്ങൾക്കു വളരെ ഉപകാരപ്രദമായിരിക്കും. സർ, വക്കീലന്മാരുടെ ക്ഷീണവശത്തെ സംബന്ധിച്ചു് മി. രവിവർമ്മതമ്പുരാൻ പ്രസ്താവിച്ചതിനോടുകൂടി ഞാൻ യോജിക്കുന്നു. അഡ്വക്കേറ്റന്മാരുടെ സാമ്പത്തികാധഃപതനത്തിൽ പ്രധാന കാരണം ഗവണ്മെന്റാണ്. ഡെറ്ററിലീഫ് ആക്റ്റു വന്നതോടുകൂടി അഡ്വക്കേറ്റന്മാരുടെ സഹായംകൂടാതെതന്നെ കക്ഷികൾ കോടതിയെ സമീപിച്ചു. അതിനുംപുറമെ രാജ്യത്തിന്റെ സാമ്പത്തികനിലയുടെ ഒരു ഉയർച്ച വരുകയും മിക്കവാറും ജനങ്ങൾ കോടതികളിൽ കേസുകൊടുക്കാതെ വഴക്കുകൾ തമ്മിൽ പറഞ്ഞുതീർക്കുകയും ചെയ്തു തുടങ്ങിയിരിക്കുന്നു. കേസുകൾ കുറയാനുള്ള വേറൊരു കാരണം കോടതികളിൽ കക്ഷികൾ അനുഭവിക്കുന്ന സങ്കടക്കൂടിയാണെന്നു തോന്നുന്നു. എത്രയായാലും വക്കീലന്മാരുടെ അമിതമായ ഫീസിനു വളരെ കുറവു വന്നിട്ടുണ്ട്. അതിനെ പരിഹരിക്കുവാൻവേണ്ടി ഗവണ്മെന്റു ധാരാളം വക്കീലന്മാരെ സർവ്വീസിൽ നിയമിക്കുന്നതു തീർച്ച

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[Mr. N. Narayana Kurup.]

യായും അശ്വാസകരം തന്നെയാണ്. മി. തമ്പുരാൻ നിർദ്ദേശിച്ചതു പോലെ 60 വയസു കഴിഞ്ഞാൽ ഈ സമയിലെ പാനൽ അഫ് ചെയർമാനായാലും ശരി കച്ചേരിയിൽ കടന്നുകൂടെന്നും ചേംബർ പ്രാക്റ്റീസുമാത്രമെ ചെയ്യാവൂ എന്നും ഒരു നിയമമുണ്ടാക്കണം. 60 വയസു തികഞ്ഞവർ അവരുടെ കോടതികളിലെ പ്രാക്റ്റീസ് നിറുത്തണം എന്നൊരു നിയമം ഉണ്ടാക്കുന്ന പക്ഷം ഇപ്പോഴുള്ളതിൽ 50 ശതമാനമെങ്കിലും വീട്ടിലിരിക്കേണ്ടതായി വരും. അതുകൊണ്ടു രവിവർമ്മ അഭിപ്രായപ്പെട്ട കൂട്ടത്തിലുള്ളവർക്കു വളരെ അശ്വാസകരമായിത്തീരുന്നതുമാണ്.

Mr. G. Narayana Aiyar: സ്വാർ കേസുകളുടെ എണ്ണം കൂടിയിട്ടുള്ളതായി മെമ്പർക്കറിയാമോ?

Mr. N Narayana Kurup : പത്തോ അയ്യായിരമോ സ്വാർ കേസുകൾ വന്നതുകൊണ്ടു വലിയ പ്രയോജനമൊന്നുമില്ല. അതുപോലെ കേസുകൾ വർദ്ധിച്ചാൽ മാത്രമേ മതിയായ അളവായ വക്കീലന്മാർക്കു ലഭിക്കുകയുള്ളു. വക്കീലന്മാരുടെ നിലയെപ്പറ്റി ഒരു അഭിപ്രായം പ്രമാണി ഇങ്ങനെയാണു പ്രസ്താവിച്ചിരിക്കുന്നതു്. ഒരു വക്കീലിനു നാലു സ്റ്റേജുകൾ ഉണ്ടു്. ആദ്യമായിട്ടു കേസ്സൊട്ടും ഇല്ലാത്ത ഒരു നില; കേസും ഫീസും ഇല്ല. രണ്ടാമത്തേതു കേസുണ്ടു് ഫീസില്ല. മൂന്നാമത്തേതു കേസും ഫീസും ഉണ്ടു്. ഈ നല്ല വക്കീലന്മാരുടെ ഒരു നിലയാണു്. നാലാമത്തെ സ്റ്റേജു് കേസില്ല ഫീസുണ്ടു്. അതായതു നമ്മുടെ ദിവാൻജി. അവർകൾക്കു ഇവിടെ ദിവാൻജിയാകുന്നതിനു മുൻപുണ്ടായിരുന്ന നിലയാണു്. ഇന്നു സകല തൊഴിലുകാർക്കും സാമ്പത്തികമായി അഭിവൃദ്ധിയുണ്ടായിട്ടുണ്ടു്. എന്നാൽ അഡ്വക്കേറ്റിന്റെ നില തുലോം പരിതാപകരമായിട്ടാണു് ഈ യുദ്ധപരിതഃസ്ഥിതിയിലും വന്നിട്ടുള്ളതു്. അതിനാൽ ഗവണ്മെൻറു് അഡ്വക്കേറ്റന്മാരുടെ കാര്യത്തിൽ പ്രത്യേകം ശ്രദ്ധിക്കയും ഒരു വലിയ വിഭാഗത്തെ സർവീസിലെടുക്കണമെന്നപേക്ഷിക്കയും ചെയ്യുന്നു.

Mr. K. G. Kunjukrishna Pillai : Sir, I am very grateful to the honourable members of this House for the very good suggestions offered on this Demand. I have noted as many as seventeen points and within the short time at my disposal I may be unable to deal with each one of them separately. I may assure the House that every one of these points will receive the attention of the honourable High Court and the Government and as far as possible remedies will be given.

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I may refer to one or two points immediately. One of the points raised was with regard to the difficulties that arise when a Munsiff takes casual leave for 10 days and a party wants immediate remedy by way of injunction. I may explain that in many places there are more than one Munsiff and there are certainly competent Advocates who will find some remedy and some way out of the difficulty by filing a complaint in the next Munsiff's Court or in a Criminal Court.

Mr. G. Narayana Aiyar : Can the Advocate have recourse to a remedy which is not legally permitted but invented for the purpose of the case?

Mr. K. G. Kunjukrishna Pillai : There are many remedies legally permissible.

With regard to the raising of the age of recruitment of Munsiffs, I submit, Sir, that I for one do think that even the present age-limit is a bit high. If a Munsiff is recruited at 31 he has to retire at 55 and with the concession of 4 years added alone he can get half pension. Secondly, Sir, anyone who goes to the Bar, does so at the age of 24 or 25. Even suppose they join the Bar when they are 28, by the time he is 34, he would, if he is working, have made his mark. There cannot be any dispute on that matter among the members of the Bar. So there is no meaning in asking for raising the age to 40 when the man has lost all his incentive for work and is waiting for the time when he can retire. So I am against raising the age.

With regard to communal representation honourable Members will note what was stated on the floor of the House by the Dewan-President and myself on behalf of the Government. One assurance can be given to every member of every community. The fact that a candidate belongs to a particular community will not stand as a bar for recruitment to the judiciary so that any young man who thinks he has grit and merit can enter the service. Barring that, no further promise can be given for the simple reason that the Temple of Justice is a place which should not be lowered by importing into it extraneous considerations other than those of merit as seen in the practice at the Bar, efficiency as seen by the presiding officers, and character. These are the three things considered in the case of recruitment to the judiciary.

Mr. G. Madhavan : May I know whether in cases of equal merit between two candidates, Government will be pleased to prefer the candidate belonging to the un-represented community?

President : They do that.

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Mr. K. G. Kunjukrishna Pillai : There is absolutely no doubt about that.

Another point that was raised was with regard to the sad plight of the junior lawyers. It is certainly a matter for agony for successful senior members of the Bar to see equally competent members of the Bar roaming about. But what is the good of saying that the top most members should be compelled to retire at 55? Are these young members going to get their work?

Mr. G. Narayana Aiyar : Does the honourable Member know that very brilliant youngsters do not get the opportunity even for appearing in courts?

Mr. K. G. Kunjukrishna Pillai : Sir, I am submitting a truism. If a man is a brilliant youngster there is no doubt that he will find chances. The brilliance of the youngster also means that he finds chances.

Mr. G. Narayana Aiyar : Does the honourable Member suggest that he should have recourse to touting?

Mr. K. G. Kunjukrishna Pillai : I never suggested anything like that. The brilliant men do not go for touting. The brilliant man has no necessity for touting. The brilliant men are found out by the clients even on the road. Do not for a moment take it that I do not sympathise with the non-brilliant men. We shall do all that we can for them. Therefore I suggest that the Bar Council should insist upon juniors being employed on all-judicial work. Only in such a way can the brilliant men as well as the non-brilliant men get something at the start.

With regard to document writers, the matter is being considered by Government. Suggestions have been put forward before Government to start a nucleus for solicitors firms. That requires some rules of practice. That will be put into effect as soon as possible.

With regard to the raising of the advocates' fees the matter is pending before the High Court. But I may say, Sir, as a lawyer, that if you raise the fees the lawyer at the top gets it and not the lawyer at the bottom.

President : Order, Order. The time for the discussion of the demand having elapsed, the question before the House is that a sum of Rs. 15,39,547 be granted under Demand VII—Administration of Justice—be granted.

The motion was put to vote and carried.

The Demand was passed and the grant was made.

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